



United States Environmental Protection Agency
Office of Water
Office of Science and Technology



Federal Water Quality Standards for Waters in Indian Country

April 2004

What Is the Concern?

Only 23 Indian tribes have water quality standards in place under the Clean Water Act. Without applicable standards, the Clean Water Act's mechanisms for protecting water quality in Indian country are limited.

What Has Been Done Previously?

In 1998-2000 EPA, in consultation with the Tribal Caucus and over 235 tribal representatives, developed the concept of promulgating Federal water quality standards as a way to protect Indian country waters currently without Clean Water Act standards. On January 19, 2001, Administrator Carol Browner signed a proposed rule to promulgate "core" Federal standards in Indian country except where tribes "opt out" to develop or work with EPA on specific standards. "Core" standards would include the basic provisions of standards as a first step that could be supplemented with more detail at a later date. A few days later, on January 22, 2001, EPA withdrew that proposal to allow Administrator Christine Whitman to review it. Administrator Whitman requested that EPA conduct additional consultation with tribes and states before releasing a proposed rule.

EPA has found that a number of issues had been raised both before and after 2001, with a mix of opinions including varying views from Tribes. EPA believes it should further consult with Tribes and States and obtain views from the public on specific aspects of promulgating Federal water quality standards for waters of Indian country.

In 2003, EPA began preparing an Advanced Notice of Proposed Rulemaking (ANPRM) for Federal water quality standards for waters in Indian country. The ANPRM would present specific approaches and issues regarding a possible rulemaking to put Federal water quality standards in place for certain waters in Indian country. The notice would openly present options/issues and not predetermine any outcome, and invite public comments. EPA would not make any decisions on how to proceed until after the comment period for the ANPRM closed and comments had been considered. The ANPRM would pose specific questions about the provisions such as: should EPA promulgate "core" standards? Individually tailored standards; for tribes who wish to develop their own plan for establishing standards, which is preferred: an "opt out" or an "opt in" approach for Federal standards; are there waters where absence of water quality standards is preventing a solution to water quality problems; what are the potential impacts of having and not having water quality standards in place in Indian country.

EPA developed the ANPRM through consultation/outreach with interested Tribal members of EPA's Tribal Operations Committees, members of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), and other entities. This consultation/outreach is helping EPA to make the ANPRM balanced and factually accurate, and ensure the right topics are covered. In August and November 2003, EPA provided copies of the draft ANPRM to interested Tribal members and contacts, State contacts, and other entities for comment.

What Is EPA Doing Now?

EPA is currently reviewing detailed comments from fourteen Tribes, two Tribal organizations, four States, and two Federal agencies to our November 2003 draft ANPRM. A majority of Tribal commenters indicated a need for more formal consultation with Tribes on the potential rulemaking. EPA will undertake government-to-government consultation with affected Tribes before any rulemaking on Federal water quality standards for waters of Indian country. In light of recent comments from Tribes, we are now reconsidering the timing and mode of consultation and outreach for this project as one of our next steps. As EPA continues our dialogue with Tribes and States on the implications of moving toward any Federal rulemaking, EPA will continue to listen carefully and consider all perspectives. If it is appropriate to take additional time to achieve more consensus than currently exists before deciding whether to move forward with the ANPRM, we will do so.

Can Tribes Apply To Develop Their Own Standards?

Absolutely. EPA's preference is for Tribes to develop and adopt their own federally-approved water quality standards where possible. EPA will continue to assist Tribes to apply for approval for program authorization under the Clean Water Act and to develop their own standards. EPA has approved applications from several tribes in the past year.

Is There Any Additional Information Available on EPA's Website?

Copies of this fact sheet and other relevant information regarding Federal water quality standards for waters of Indian country are available on the Internet at <http://www.epa.gov/ost/standards/tribal/>

For Further Information, Please Contact:

Region 1 (CT, MA, ME, NH, RI, VT)
William Beckwith, 617-918-1544
Valerie Bataille, 617-918-1674

Region 2 (NJ, NY, PR, VI)
Janice Whitney, 212-637-3790
Wayne Jackson, 212-637-3807

Region 3 (DE, DC, MD, PA, VA, WV)
Cheryl Atkinson, 215-814-3392

Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)
Eve Zimmerman, 404-562-9259
Bill Patton, 404-562-8632

Region 5 (IL, IN, MI, MN, OH, WI)
Kathleen Mayo, 312-353-5592
Jennifer Manville, 213-922-4769

Region 6 (AR, LA, NM, OK, TX)
Diane Evans, 214-665-6677
Annette Barnard, 214-665-7272

Region 7 (IA, KS, MO, NE)
Wolfgang Brandner, 913-551-7381
Royce Kemp - Nebraska, 913-551-7551

Region 7 (IA, KS, MO, NE) (continued)
Emily Detrich - Kansas, 913-551-7295
Paul Schwaab - Iowa, 913-551-7581
Cheryl Crisler, 913-551-7820

Region 8 (CO, MT, ND, SD, UT, WY)
George Parrish, 303-312-7027
Connally Mears, 303-312-6343

Region 9 (AZ, CA, HI, NV, AS, GU)
Kristin Gullatt, 415-972-3432
Jovita Pajarillo, 415-972-3491
Clancy Tenley, 415-972-3785
Terry Oda, 415-972-3572

Region 10 (AK, ID, OR, WA)
Marcia Lagerloef, 206-553-0176
Sandra Johnson, 206-553-6358

American Indian Environmental Office:
Tonya Fish, 202-564-0294

Office of Water/Office of Science and Technology:
Edward Hanlon, 202-566-0765, regulation manager
Fred Leutner, 202-566-0378, Senior Advisor

Note: you may send an email to any of the above using the format Lastname.Firstname@epa.gov